

Applicants submit herewith Exhibit 2 (a partially redacted copy of the ATCC Deposit Receipt for ATCC Deposit No. 97186) as evidence of the deposit date and viability as required under 37 C.F.R. § 1.806 and § 1.807 (a). The ATCC Deposit Receipt for ATCC Deposit No. 97186 indicates that the deposited DNA plasmid is assigned Attorney docket number PF201, the same Attorney docket number assigned to the instant application. Moreover, the ATCC Deposit Receipt indicates that the deposited DNA plasmid is assigned DNA Plasmid number 693345. Exhibit 3 (a partially redacted copy of "HGS Inc. Sequence Worksheet") is submitted to show that plasmid number 693345 on the ATCC Deposit Receipt is the same DNA Plasmid number assigned to Clone HLTDG74 (i.e. "Sequence ID: hltdg74xx") described in the present application. Thus, the information provided in Exhibits 2 and 3 indicate that the Attorney docket numbers assigned to the deposited DNA plasmid and to the instant application are identical. The information provided as Exhibits 2 and 3 also establishes a nexus between the deposited DNA plasmid, its assigned DNA Plasmid number, and DNA plasmid clone HLTDG74, as identified in the present application as originally filed.

Original claims 1, 10-12, 15-17, and 19, and new claims 21-76 will be pending upon entry of this amendment. Claims 2-9, 13-14, 18 and 20 have been canceled and new claims 21-76 have been added in order to more particularly point out and distinctly claim the subject matter Applicants regard as the invention. Applicants submit that the subject matter of new claims 21-76 falls within the scope of Group II, as defined by the Examiner in the Office Action dated March 15, 2000. New claims 21-76 find support in the claims as originally filed and throughout the specification. Thus, no new matter has been introduced.

Particularly, support for new claims 21-23 is found, for example, in the originally filed claims 8-9 and in the specification at page 19, lines 27 through 28. Support for new claims 24, 32, 39, 46, 65, and 72 is found, for example, at page 12, lines 7 through 10. Support for new claims 25, 33, 40, 47, 66, and 73 is found, for example, at page 19, lines 24 through 26. Support for new claims 26, 34, 41, 48, 67, and 74 is found, for example, at page 12, lines 4 through 7. Support for new claims 27, 35, 42, 49, 68, and 75 is found, for example, at page 13, lines 18 through 22. Support for new claims 28, 36, 43, 50, 69, and 76 is found, for example, at page 34, last paragraph through page 40. Support for new claims 29-31 and 44-45 is found, for example, at page 7, lines 10 through 12 and at page 19, lines 27 through 28. Support for new claim 37 is found, for example, at page 12, lines 22 through 24. Support for new claim 38 is found, for example, at page 12, lines 25 through 26. Support for new claim 70 is found, for example, at page 12, lines 26 through 28. Support for new claim 71 is found, for example, at page 12, lines 26 through 29. Support for new claims 51-64 is found, for example, at page 6, lines 28 through 31, at page 32, lines 10 through 12, and in Figure 2 of the specification as originally filed.

Additional support for new claims 51-64 is also found, for example, in a tabular representation of the data disclosed in Figure 2 of the instant application and U.S. Application

Serial No. 08/468,011 filed June 6, 1995, to which this application claims benefit of priority under 35 U.S.C. § 120, submitted herewith as Exhibit 1. This tabular representation merely presents the analysis described in the specification (for example, at page 6, fifth paragraph, to page 7) and disclosed in Figure 2 of the specification in a different format and that may routinely be generated by analyzing the amino acid sequence of SEQ ID NO:2, as disclosed in the specification, using the default parameters of the computer programs disclosed in Figure 2 as originally filed. In particular, Exhibit 1 (starting on page 10, column 3 labeled "James... Antig...") presents, in tabular form, the antigenic index values generated by the Jameson-Wolf algorithm schematically depicted in Figure 2 of the original application (see Jameson, B.A., and Wolf, H., *Comput Appl Biosci* 4(1):181-6 (1988)). Applicants, therefore, clearly contemplated the antigenic fragments disclosed in Figure 2 and SEQ ID NO:2.

No new matter has been added by way of these amendments. Accordingly, entry of the above amendment is therefore respectfully solicited.

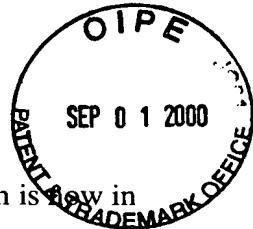
#### ***Traversal and Provisional Election***

The Examiner has required an election under 35 U.S.C. § 121 of one of Groups I-IX. In response, Applicants provisionally elect, *with traverse*, Group II represented by new claims 21-76. Applicants reserve the right to file one or more divisional applications directed to the non-elected inventions should the restriction requirement be made final.

Applicants respectfully traverse the restriction requirement as it applies to Groups I-III. As the Examiner points out, polynucleotides, polypeptides, and antibodies are patentably distinct inventions. However, even where two patentably distinct inventions appear in a single application, restriction remains improper unless it can be shown that the search and examination of both groups would entail a "serious burden". *See*, M.P.E.P. § 803. In the present situation, no such showing has been made. Indeed, no arguments have been made explaining why it would impose an undue burden to examine Groups I-III together.

Applicants submit that a search of the polypeptide claims would provide useful information for Groups I and III. For example, many if not most publications that include a polypeptide sequence, also routinely include polynucleotide sequences encoding said polypeptide as well as disclosure of antibodies to said polypeptide (if any have been generated). Thus, the searches for polynucleotides, polypeptides, and antibodies commonly overlap. Thus, the search and examination of a polynucleotide, its corresponding deduced polypeptide sequence, and corresponding antibodies would not entail a serious burden. Thus, the searches for Groups I-III would be overlapping.

Accordingly, as applied to Groups I-III, the restriction requirement should be withdrawn.



**Conclusion**

In view of the foregoing remarks, applicants believe that this application is now in condition for allowance. An early notice to that effect is urged. The Examiner is invited to call the undersigned at the phone number provided below if any further action by Applicants would expedite the examination of this application.

Finally, if there are any fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 08-3425. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

Dated: September 1, 2000

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Enclosures

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